IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISC. APPLICATION NO. 37 OF 2005.

Shri Bablo Sakharam Gaonkar,
son of Shri Sakharam Soma Gaonkar,
aged about 35 years, married,
service, residing at Satarkarwada
at Village Maulinguem,
Bicholim Taluka Goa. .... Applicant.

Versus

Mrs. Sushila Pandu Gaonkar, alias,
Sukanti bablo Gaonkar,
resident of Village Volvem,
Village Panchayat of Pissurlem,
Sattari Taluka, Goa. .... Respondent.

Shri Arun Bras de Sa, Advocate for the Petitioner.

Shri S.G. Bhobe, Advocate for the Respondent.

CORAM: N. A. BRITTO, J.

DATE: 27th APRIL, 2005.

O R D E R:

Heard Shri Arun Bras de Sa, the learned counsel of the Applicant and Shri S.G. Bhobe, the learned counsel of the respondent.

2. The applicant has invoked the jurisdiction of this Court under Section 482 of the Code of Criminal Procedure, 1973 to challenge the Order dated 7.1.05 of the learned J.M.F.C., Sattari, directing the applicant to pay

interim maintenance of Rs.1500/- per month.

3. There is no dispute that the applicant and the respondent were married on 6.2.98. Till about a year of the said marriage, their relations were good, but later on, it was the case of the respondent that the parents of the applicant started harassing her to do manual labour and also started demanding that she should get money from her married brothers and still later on the applicant's mother and the applicant started assaulting her physically and also stopped giving her food.

4. Admittedly, from 23.7.04 the applicant has not provided any maintenance to his wife, the respondent. After the respondent approached the Goa State Commission for Women for redressal of her grievances and finding that the applicant was not cooperating that she was compelled to approach the learned J.M.F.C., Sattari with an application for maintenance. It appears that the applicant was working in one factory in village Maulinguem, but since then has left his job.

5. Shri Arun Bras de Sa, the learned counsel on behalf of the applicant, has submitted that the impugned order has been passed without any evidence to show that the applicant had sufficient means to provide maintenance to the respondent. Shri Bras de Sa has further submitted

that the respondent left the applicant's house on her own and therefore would not be entitled to any interim maintenance.

6. Shri Bhobe, the learned counsel of the respondent, on the other hand, has submitted that the applicant even if he was blind, had no excuse to maintain his wife the respondent and in this context Shri Bhobe has placed reliance on a decision of this Court in the case of ***Sudha @ Ranjana R. Patil v. Rajkumar Deoganda Patil and another ([1997 (2) Mh.L.J. 250]***.

7. If at all the respondent was compelled to leave her matrimonial house, it is probably because her living in the said house was made difficult by the applicant and his family, as alleged by the respondent in the petition. The main inquiry into the application under S.125 of the Code of Criminal Procedure, 1973 would certainly be completed at an early date. In any event, the learned J.M.F.C., Valpoi is hereby directed to complete the same as expeditiously as possible, and in any event, within a period of six months from today. The applicant as an able bodied person, is bound to maintain the respondent who is his legally wedded wife and who has not been provided with any maintenance at least from 23.7.04. The provisions of S.125 of the Code was enacted by Parliament to serve a social purpose namely to provide machinery for

summary enforcement of moral obligation of a man towards his wife and children so that they may not, out of sheer destitution, become a hazard to a well being and orderly society. With the same object in mind, the Hon'ble Supreme Court also read into the said provisions the scope for providing interim maintenance. There is no dispute that the respondent is unable to maintain herself and the applicant being able bodied as well as having other means is bound morally to support the respondent who is his wife and who at present is unable to maintain herself.

8. In my view, there is no merit in this application. Consequently, the same is hereby dismissed.

N. A. BRITTO, J.

sl.